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February 21, 1995

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

William Caton  
Secretary  
Room 222  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

SUMMARY OF EX PARTE PRESENTATION

Re: CC Docket Nos. 92-77 and 94-158 DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

Today, the undersigned met with Kathleen Levitz and Anna Gomez of the Common Carrier Bureau to discuss the Inmate Calling Services Providers Task Force's ("ICSPTF") rate benchmark proposal. ICSPTF is a task force of the American Public Communications Council comprised of approximately twenty companies which are engaged in the provision of specialized telephone equipment and services to prisons and other correctional facilities. ICSPTF's members range from small, privately-held concerns, to several large, publicly-traded telecommunications corporations.

In the meeting, we discussed serious concerns that have been raised on the record of this proceeding about the application of billed party preference ("BPP") to correctional facilities, and that the overwhelming majority of commentators on this issue, including the Federal Bureau of Prisons, several local exchange carriers and numerous members of Congress, have made it clear that BPP would jeopardize facility administrator control over inmate calling, increase the risk of fraud and other criminal activity by inmates, and eliminate an important source of revenue that pays for inmate welfare programs.

At the same time, we recognized that there is still concern that the rates being charged by a limited number of providers of inmate calling services may be unnecessarily high. In comments filed in CC Docket 92-77, the ICSPTF has advocated a direct approach for curtailing unreasonable rates, rather than the indirect and costly approach of BPP, by proposing that the Commission follow the lead of several states and establish a reasonable rate benchmark for interstate inmate calls. Under a benchmark form of regulation, tariffed rates at or below the

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William F. Caton  
February 21, 1995  
Page 2

benchmark would not be subject to suspension. By contrast, rates above the benchmark would be subject to suspension and investigation by the Commission pursuant to Section 204 of the Communications Act.

Since making that proposal, ICSPTF has worked diligently with industry members, and has sought input from the representatives of inmate families, to arrive at a specific benchmark proposal that is reasonable and that will ensure that inmates will continue to enjoy the benefits of increased calling opportunities. The specific benchmark ICSPTF proposes is as follows: (a) the operator services charge for inmate calls should be no more than the dominant carrier's current operator service charge for this type of calling; (b) the usage rates for the first minute should be no more than the dominant carrier's current daytime first-minute rate, with a reasonable "safe harbor" up to \$.50 additional in order to account for the higher costs of certain providers; (c) the usage rates for the next additional ten minutes should be no more than the dominant carrier's current daytime additional minute rate, with a reasonable "safe harbor" up to \$.15 per minute additional in order to account for the higher costs of certain providers; and (d) the usage rates above eleven minutes should be no more than the dominant carrier, since all providers should have been able to recover their reasonable higher costs through the "safe harbor" charges allowed under the first eleven minutes. Thus, there would be a maximum charge of \$2.00 above the dominant carrier's daytime rate for inmate calls, with the maximum reached only for calls that reached or exceeded eleven minutes in length.

ICSPTF also believes that the Commission should designate a special classification for inmate calling tariffs in its public notices announcing tariff filings, require cost-justification and lengthen the notice period for tariffs which exceed the benchmark in order to give the staff sufficient time to review and, if appropriate, suspend such tariffs. In substance, providers who exceed the benchmark should be subject to "dominant carrier-like" treatment. Further, to the extent that certain providers may be ignoring the tariff requirements of the Act, ICSPTF recommended that the Commission provide a stern warning that it will pursue the maximum penalties against any provider who fails to file a tariff or who charges rates that are different than the rates reflected in its tariff.

We also discussed how ICSPTF's proposal is relevant to the Commission's Notice of Inquiry in CC Docket No. 94-158 requesting comments on what, if any, changes should be made to the rules applicable to inmate-only telephones and how it can help address the issues raised in that proceeding. In this context, we stated that ICSPTF's proposal is clearly a productive proposal that should be given serious consideration by the Commission.

Finally, although it was not discussed at our meeting, we respond herein to an October 7, 1994, *ex parte* letter filed by the Public Utility Law Project of New York, Inc. ("PULP") which concerned rate benchmarks for inmate calls. PULP essentially argued that if the Commission goes forward with a rate benchmark proposal, it should set the benchmark at a level that is 20% less than the rate charged by AT&T. We would emphasize that ICSPTF took great

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**William F. Caton**

**February 21, 1995**

**Page 3**

care to arrive at a benchmark proposal that would both stop the charging of unreasonable rates, and ensure continuous availability of systems that enhance inmate calling opportunities. We explained that PULP's proposal would do nothing but ensure that the largest carriers, such as AT&T and the Bell Operating Companies ("BOCs"), regain total control of the inmate calling market, thereby depriving inmates and their families the benefits of widely available inmate calling systems and calling opportunities.

Sincerely,

A handwritten signature in dark ink, appearing to read "Albert H. Kramer", followed by a horizontal line.

**Albert H. Kramer**

**David B. Jepps**

**Counsel to the Inmate**

**Calling Services Providers**

**Task Force**

cc: **Kathleen Levitz**  
**Anna Gomez**

**EXPART.LET**